

CHILD PROTECTION ACCOUNTABILITY COMMISSION  
MEETING MINUTES OF MAY 23, 2001  
SPECIAL LEGISLATIVE MEETING

The meeting convened at 9:10am with a welcome by Lynne Howard, CPAC Chair.

Members and others introduced themselves and agency they represented.

Present were:

Members/Designees:

Lynne Howard, CPAC Chair  
Tania Culley, Esq.  
The Honorable Peggy L. Ableman  
Attorney General M. Jane Brady  
Peter Feliceangeli, Esq.  
Jim Apostolico, Esq.  
Allan DeJong, M.D.  
John Humphrey  
Representative Pamela Maier  
Janice Mink  
Van Warrington  
Alice J. Bailey for Colonel Gerald R. Pepper, Jr.  
Commissioner Pat Stewart

Regular Attendees:

Mary Catherine Landis, Esq.  
Anne Pedrick  
Cora Bechard

Guests/Public:

Joe Backer  
Roger Blevins  
Mary Lou Edgar  
Rosemary Killian  
Donna Lanier  
Frances Pullella

## OPEN REMARKS

It was noted that the Legislative body was on recess and this was a time to take the opportunity to meet with Senators and Representatives. The Commission would be reviewing five pieces of legislation.

Janice Mink requested to add a sixth piece of Legislation: SB#149. Her request was granted. Members at this time were asked to present additional legislation they wished to address. SB#195 was introduced.

Lynne Howard turned over the meeting to Peter Feliceangeli, Esq.. Peter distributed the May 21, 2001 CPAC Legislative Subcommittee report on Pending Legislation.

## PENDING LEGISLATION DISCUSSED

**SB195** – Teachers would not be available on school days to testify in child custody proceedings.

**Reason:** Proceedings viewed as an interruption of a teacher's time.

**Discussion:** Teachers are an unbiased view in a proceeding; if SB195 passed this could delay court proceedings; Superior Court allows phone testimony – does Family Court?; Talk with Dept. of Ed and School Dist. Superintendents.

**CPAC Stance:** OPPOSE

1<sup>st</sup>: John Humphrey                      2<sup>nd</sup>:

Abstain: Attorney General M. Jane Brady, Peter Feliceangeli, Esq.

**HB159 Amendment** – Family Court may examine the criminal history of any party or adult of the household with regards to the best interest of the child in custody cases.

**Reason:** Provides additional safeguards for Delaware's children

**Discussion:** Question asked: Currently not done? A reply of convicted history is currently allowed. This amendment would cover any non-convicted history as well. Also noted was: TPR does check convictions, DFS runs DEL JIS 12+ for all offenses; and Section 722 states "all".

**CPAC Stance:** Recommend remove "Adult" and ask why juvenile probation not part of.

1<sup>st</sup>: Janice Mink                      2<sup>nd</sup>: Rep. Maier

Abstain: Attorney General M. Jane Brady, Peter Feliceangeli, Esq.

**HB149** – Biological siblings not residing with one another would be allowed to petition the Court for the right to visit one another.

**Reason:** Children in separate placements should have the opportunity to maintain contact with biological siblings. It is not their fault a single placement to handle a multiple sibling group could not be located.

**Discussion:** Concerns of parents using one child to acquire an audience with another child that has been TPR/adopted; the Commission was requested to give thought to cause and effect of children not to be allowed visitation with biological siblings; the Commission was asked that it also allow the visitation issue be addressed by the foster and adoptive parents, not mandated by legislation

**CPAC Stance:** Recommend with noted wording: "No right of action where one of children TPR or adopted..."

1<sup>st</sup>: John Humphrey                      2<sup>nd</sup>: Commissioner Patricia Stewart

Abstain: Attorney General M. Jane Brady, Peter Feliceangeli, Esq.

**HB198** – Would redefine disciplinary actions.

**Reason:** Reorganization and revamping of current law as it is written regarding definition of child abuse.

**Discussion:** CPAC opposes at this time with regards to the allowance of greater discipline. The CPAC Legislation Subcommittee did review the memo from Tania Culley to the Senate and House identifying the differences between the current version and the proposed version. It was suggested to provide training to parents to identify what is abusive punishment. This should be kept separate from the Child Abuse Registry. The issue of when DSCYF/DFS allowed to enter a home when no criminal or physical pain are involved. The new medical definition is worse than the current one.

Issues of discussion:

Current code is pretty specific; the public supports it overwhelmingly

Does not include slapping on bottom - - allows parents to offensively touch their children, but not assault them.

DFS would not be allowed to review bruises if not passed

Over age 3 not unlikely to be harmed if shaken is not true.

Current system has checks and balances, thought not perfect

**CPAC Stance:** Take no action on this piece of legislation at this time. For the CPAC Legislation Sub-committee to further review

Disapprove 1<sup>st</sup>: John Humphrey                      2<sup>nd</sup>: Judge Ableman

Abstain: Attorney General M. Jane Brady, Peter Feliceangeli, Esq.

**Guardianship** – Creating a new chapter to Title 13 of the Delaware Code

**Reason:** To create a statutory framework of procedures and requirements for guardianship.

**Discussion:** At this time there is no statutory distinction from that of custody. Concern was mentioned that this would be a fast gaining alternative to TPR and adoptions. A Foster Parent or relative can go for Permanent Guardianship (PG). This could provide for permanent placement without loss of necessary support especially in cases of disabilities that adoption would eliminate. This would also be beneficial to older kids. The child in a PG does not have automatic or implied rights to inherit from the PG. A 14-year-old would have to consent to a PG placement. The legal sector of the commission was grateful for this guideline assistance that will help with case dispositions.

**CPAC Stance:** Support.

1<sup>st</sup>: Judge Peggy Ableman                      2<sup>nd</sup>: Commissioner Patricia Stewart

Abstain: None.

**Mixing** – Youth charged or adjudicated will not be mixed without a Court Order

**Reason:** To streamline and make less cumbersome the process without compromising the safety of children.

**Discussion:** James Maxwell, Esq. researched the proposed bill and concludes that it meets the Federal requirements.

**CPAC Stance:** Support

1<sup>st</sup>: Peter Feliceangeli, Esq.                      2<sup>nd</sup>: Janice Mink

Abstain: Attorney General M. Jane Brady

**MISCELLANEOUS LEGISLATIVE ISSUES**

Request: To propose to Legislation to add the listed agencies:

1. Child Placement Review Board
2. Division of Child Mental Health Services (Do not know if my place, but if CMH then should DYRS not be added?)
3. Department of Education
4. Interagency Council on Adoption

**Reason:** To provide a border scope of child involvement

**CPAC Stance:** Support

1<sup>st</sup>: Judge Peggy Ableman      2<sup>nd</sup>: Van Warrington

Abstain, Peter Feliceangeli, Esq.

Absent: Attorney General M. Jane Brady

**GUEST SPEAKER**

Deputy Attorney General Rosemary Killian discussed three main points with regards to HB198

- This existed in the early 90's. The law does not eliminate corporal punishment;
- Offensive touching is that which is unpleasant to the person receiving the touch; even though the touching does not leave a bruise; and
- In 1992 if a parent bruised a child: a belt created a welt, or the slap created a red mark then the parent went too far.

**GENERAL COMMENTS**

The Honorable Peggy Ableman asked why CPAC did not receive root cause analyses of their findings. The recent death of a child prompted this question and should the Commission not be made aware of such incidents.

The CPAC Training Subcommittee is planning a conference in October 2001 with Judge Gill as the main speaker.

The meeting adjourned at 11:38am.